

REUTERS AMERICA LLC,

Plaintiff,

- against -

OUTDOOR TELEVISION NETWORK, INC.,

Defendant.

04 Civ. 6657 (RMB) (AJP)

DECISION AND ORDER

I. Background

On August 17, 2004, Reuters America LLC (“Plaintiff”) filed a complaint against Outdoor Television Network, Inc. (“Defendant”) to recover the sum of \$401,900.00 plus interest for services allegedly rendered pursuant to a written contract between Plaintiff and Defendant, dated July 2, 2003 (“Contract”). Plaintiff alleged that two invoices, dated November 17, 2003 and December 22, 2003, respectively, were not paid by the Defendant despite repeated requests. (Complaint at 4.)

On March 7, 2005, Plaintiff moved for default judgment. When Defendants failed to respond to the default application or to appear at a hearing on April 20, 2005, the Court entered default judgment for Plaintiff on April 21, 2005 and referred the matter to Magistrate Judge Andrew J. Peck for an inquest on damages.

On April 28, 2005, the Magistrate Peck, issued a detailed Report and Recommendation (“Report”) recommending that Plaintiff be awarded damages in the amount of \$401,900.00, plus (prejudgment) interest pursuant to the Contract at the rate of two percent (\$8,038) per month from December 22, 2003 to the date of judgment. (Report at 2.)

The Report advised that “the parties shall have ten (10) days from service of this Report to file written objections” and that failure to file objections would result in a waiver of objections for purposes of appeal. (Report at 2 (citing 28 U.S.C. § 636(b)(1)(C)); Fed. R. Civ. P. 72(b).)

As of this date, the parties have not filed objections to the Report.

II. Standard of Review

In reviewing a magistrate judge’s report and recommendation, the Court may adopt those sections of the report to which no objections have been made and which are not facially erroneous. See Fed. R. Civ. P. 72(b); Thomas v. Arn, 474 U.S. 140, 149 (1985); Pizarro v. Bartlett, 776 F. Supp. 815, 817 (S.D.N.Y. 1991); Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985) (“To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.”). “Within 10 days after the magistrate files his proposed findings and recommendations, any party may file objections. The statute then provides: ‘A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.’” United States v. Raddatz, 447 U.S. 667, 673 (1980). “The judge may then accept, reject, or modify, in whole or in part, the magistrate judge’s proposed findings and recommendations.” DeLuca v. Lord, 858 F. Supp. 1330, 1345 (S.D.N.Y. 1994); accord Grassia v. Scully, 892 F.2d 16, 19 (2d Cir. 1989).

III. Analysis

Having conducted a review of the Report and applicable legal authorities, the Court finds that the Report is not clearly erroneous and is in, in fact, conformity with the law in all respects.

See Pizarro, 776 F. Supp. at 817; Schwartz-Liebman Textiles v. Last Exit Corp., 815 F. Supp. 106, 107 (S.D.N.Y. 1992).

IV. Order

For the reasons stated herein and therein, the Court adopts the Report in its entirety. The Clerk of the Court is respectfully requested to enter judgment against the Defendant in the amount of \$401,900.00 plus interest at the rate of two percent (\$8,038) per month from December 22, 2003 to the date of entry of judgment and to close the case.

Dated: New York, New York
June 10, 2005

RMB

RICHARD M. BERMAN, U.S.D.J.

